

PROPERTY TAX - RESIDENTIAL**EXEMPTION**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: _____

LONG TITLE**General Description:**

This bill amends provisions of the Property Tax Act relating to the residential property tax exemption.

Highlighted Provisions:

This bill:

- ▶ amends the size of residential property that may qualify for a residential exemption due to a local zoning requirement for residential property;
- ▶ provides that a county assessor may require an owner of residential property to file a statement showing that the property qualifies for the residential property exemption with the county assessor if:
 - the residential property is sold; or
 - the county assessor has reason to believe that the residential property no longer qualifies for the residential property tax exemption;
- ▶ provides a penalty for falsely obtaining a residential property tax exemption;
- ▶ defines terms; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2009.

Utah Code Sections Affected:

AMENDS:

59-2-103, as last amended by Laws of Utah 2004, Chapters 90 and 281

59-2-103.5, as enacted by Laws of Utah 2002, Chapter 169

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-2-103** is amended to read:

59-2-103. Rate of assessment of property -- Residential property.

(1) For purposes of this section, "minimum parcel size" means the minimum size that a parcel of property may be divided into under a zoning ordinance adopted by a:

(a) county in accordance with Title 17, Chapter 27a, Part 5, Land Use Ordinances; or

(b) city or town in accordance with Title 10, Chapter 9a, Part 5, Land Use Ordinances.

~~[(1)]~~ (2) All tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.

~~[(2)]~~ (3) Subject to Subsections ~~[(3)]~~ (4) and ~~[(4)]~~ (5), beginning on January 1, 1995, the fair market value of residential property located within the state shall be reduced by 45%, representing a residential exemption allowed under Utah Constitution Article XIII, Section 2.

~~[(3) No]~~ (4) (a) Except as provided in Subsection (4)(b), no more than one acre of land per residential unit may qualify for the residential exemption.

(b) A residential unit with land having a parcel size of more than one acre of land qualifies for a residential exemption if the size of the land per the residential unit is:

(i) equal to the minimum parcel size under the zoning ordinance applicable to the residential unit; and

(ii) five acres or less.

~~[(4)]~~ (5) (a) Except as provided in Subsection ~~[(4)]~~ (5)(b)(ii), beginning on January 1, 2005, the residential exemption in Subsection ~~[(2)]~~ (3) is limited to one primary residence per household.

(b) An owner of multiple residential properties located within the state is allowed a residential exemption under Subsection ~~[(2)]~~ (3) for:

- (i) subject to Subsection ~~[(4)]~~ (5)(a), the primary residence of the owner; and
(ii) each residential property that is the primary residence of a tenant.

Section 2. Section **59-2-103.5** is amended to read:

59-2-103.5. Procedures to obtain an exemption for residential property -- Penalty for falsely obtaining an exemption.

(1) (a) Subject to the other provisions of this section, ~~[a county legislative body may by ordinance require that]~~ in order for residential property to be allowed a residential exemption in accordance with Section 59-2-103, a county assessor may require an owner of [the] residential property [shall] to file with the county [board of equalization a statement:] assessor a statement described in Subsection (2) if:

- (i) the residential property is sold; or
(ii) the county assessor determines that there is reason to believe that the residential property no longer qualifies for the residential exemption in accordance with Section 59-2-103.
(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for purposes of this section, the commission shall broadly define the term "sold" to include in the definition one or more instances where no legal transfer of title occurs.

(2) The statement described in Subsection (1) shall:

- (a) be on a form prescribed by the commission by rule;
(b) be signed by all of the owners of the residential property;
(c) [certifying] certify that the residential property is residential property; and
(d) [containing] contain other information as required by the commission by rule.

~~[(2)-(a)]~~ (3) Subject to Section 59-2-103 and except as provided in Subsection ~~[(3)]~~ (4), a county ~~[board of equalization]~~ assessor shall allow an owner ~~[described in Subsection (1)]~~ a residential exemption for the residential property described in Subsection (1) if: ~~(i) the county legislative body enacts the ordinance described in Subsection (1); and (ii) the county board of equalization]~~ of residential property a residential exemption for the owner's residential property if the county assessor determines that the requirements of [Subsection (1)] this section are met.

~~[(b) A county board of equalization may require an owner of the residential property described in Subsection (1) to file the statement described in Subsection (1) only if:]~~

~~[(i) that residential property was ineligible for the residential exemption authorized under Section 59-2-103 during the calendar year immediately preceding the calendar year for~~

which the owner is seeking to claim the residential exemption for that residential property;]

[~~(ii) an ownership interest in that residential property changes; or~~]

[~~(iii) the county board of equalization determines that there is reason to believe that that residential property no longer qualifies for the residential exemption in accordance with Section 59-2-103.~~]

[~~(3)~~] (4) [~~Notwithstanding Subsection (2)(a), if~~] If a county [~~legislative body~~] assessor does not [~~enact an ordinance requiring~~] require an owner to file a statement in accordance with this section, the county [~~board of equalization: (a) may not require an owner to file a statement for residential property to be eligible for a residential exemption in accordance with Section 59-2-103; and (b)~~] assessor shall allow a residential exemption for the owner's residential property in accordance with Section 59-2-103.

H→ (5) If a county assessor does not allow a property owner a residential exemption in accordance with this section, the property owner may file an application to appeal with the county board of equalization in accordance with the procedures described in Section 59-2-1004.

[~~(5)~~] (6) **←H** (a) A property owner shall pay a penalty described in Subsection

H→ [~~(5)~~] (6) ←H (b) for each tax

year the property owner:

(i) knowingly files a statement described in Subsection (2) with false information; or
(ii) falsely claims the owner's property is residential property that qualifies for a residential exemption in Section 59-2-103.

(b) The penalty described in Subsection H→ [~~(5)~~] (6) ←H (a) is an amount equal to the sum of:

(i) the property tax that would have been due on the property without the residential exemption for the tax year in which:

(A) the property owner received the residential exemption; and

(B) violated Subsection H→ [~~(5)~~] (6) ←H (a); and

(ii) 10% of the amount described in Subsection H→ [~~(5)~~] (6) ←H (b)(i).

[~~(4)~~] **H→ [~~(6)~~] (7) ←H** (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking

Act, the commission shall make rules providing:

(i) the form for the statement described in Subsection [~~(1)~~] (2); and

(ii) the contents of the form for the statement described in Subsection [~~(1)~~] (2).

(b) The commission shall make the form described in Subsection [~~(4)~~] H→ [~~(6)~~] (7) ←H
(a) available
to counties.

Section 3. Effective date.

This bill takes effect on January 1, 2009.

Legislative Review Note
as of 1-23-08 4:34 PM

Office of Legislative Research and General Counsel

H.B. 155 - Property Tax - Residential Exemption

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill could lead to a shift of tax burden to real and personal property not eligible for the exemption provided in the bill.
